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Letter dated 28 October 2004 from the Permanent Representative of Australia to the United Nations addressed to the Chairman of the Committee

In accordance with Security Council resolution 1540 (2004), Australia is pleased to submit its report to the Committee.

(*Signed*) John **Dauth**

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Annex to the letter dated 28 October 2004 from the Permanent Representative of Australia to the United Nations addressed to the Chairman of the Committee

Australian report on the implementation of Security Council resolution 1540 (2004)

Introduction

The unanimous adoption of UN Security Council Resolution 1540 (2004) on 28 April 2004 (UNSCR 1540) was a major and historic achievement. This is the first Security Council resolution to address the threat posed to international peace and security by the proliferation of weapons of mass destruction (WMD) and their means of delivery, in particular by non-state actors. Australia has a range of legislative and executive measures in place that ensure compliance with UNSCR 1540.

Australia is fully committed to the work of the UNSCR 1540 Committee in ensuring global implementation of this resolution, including, where appropriate through providing assistance to others.

International instruments

Australia is a strong supporter of efforts to prevent the proliferation of WMD through compliance with multilateral arms control treaties. Australia is a State Party to the Nuclear Non-Proliferation Treaty (NPT), Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC). The prohibitions and provisions in these treaties are enacted into Australian law.

Australia has adopted an Additional Protocol to its IAEA Safeguards Agreement. This was enacted into Australian law on 12 December 1997.

Australia is also an active member of all international export control regimes that protect against illicit trade in sensitive items and technologies that could be used in WMD programs; the Nuclear Suppliers Group (NSG), the Australia Group (AG), the Missile Technology Control Regime (MTCR), the Wassenaar Arrangement and Zangger Committee. Australia is also a signatory to the Hague Code of Conduct Against Ballistic Missile Proliferation.

As chair of the AG, Australia has a special responsibility for coordinating promotion of export control measures related to items suitable for the development of chemical and biological weapons (CBW). In the absence of specific biological transfer controls under the BWC and non-coverage of dual-use equipment by the CWC, the AG sets important benchmarks for CBW non-proliferation. Over recent years, the AG has sought to increase its transparency and expanded its outreach efforts to assist

non-participating countries improve their export controls. As such, the AG, like the other export control regimes, is well placed to support international implementation of UNSCR 1540.

Australia is a core participant in the Proliferation Security Initiative (PSI) which aims to prevent trafficking in WMD, their delivery systems, and related material to and from states and non-state actors of proliferation concern. The PSI Statement of Principles, agreed in Paris on 4 September 2003, makes clear that all action will be consistent with national legal authorities and international frameworks.

Australia encourages all states to align themselves with the purposes and instruments of these groupings and is prepared to share its experience and offer assistance, as appropriate.

Legislative action

Australia has a wide range of legislative measures in place to prevent the proliferation of WMD, including by non-state actors. The main pieces of Australian legislation are: The *Weapons of Mass Destruction (Prevention of Proliferation) Act* 1995, *Nuclear Non-Proliferation (Safeguards) Act* 1987 (the "*Safeguards Act*"), *Chemical Weapons (Prohibition) Act* 1994 (the "*Chemical Weapons Act*"), *Crimes (Biological Weapons) Act* 1976. Other Australian criminal legislation also deals with terrorist offences that could lead to development of WMD by non-state actors, especially terrorists.

The *Safeguards Act* and *Chemical Weapons Act* impose controls on domestic activities associated with nuclear materials and items and CWC Scheduled chemicals, respectively. The import of CWC Scheduled chemicals is controlled by Regulation 5J of the *Customs (Prohibited Imports) Regulations*.

The main legal mechanism controlling the export of items applicable for use in military and for WMD programs, is Regulation 13E of the *Customs (Prohibited Exports) Regulations*. In addition, the *Weapons of Mass Destruction (Prevention of Proliferation) Act* applies to items or services which could be used for WMD programs and are not covered by other legislation ("catch-all provision"). Under the *Migration Regulations (Public Interest Criterion 4003b)*, Australia can also deny entry to Australia by foreign nationals engaging in WMD proliferation activities.

As well as WMD-dedicated legislation, there is a considerable amount of health, safety and environmental legislation that controls access to hazardous materials, some of which may include WMD materials. The Australian Government is reviewing all WMD and hazardous materials controls, with a view to enhancing them if necessary for counter-terrorism purposes.

Implementation and Enforcement

The Department of Defence, the Department of Foreign Affairs and Trade, the Australian Customs Service and the Australian Safeguards and Non-Proliferation Office are the main organisations involved in implementing and enforcing WMD legislation in regard to exports, imports and facility activities. There are a number of inter-agency representation structures in place to ensure the work of these agencies is well coordinated and informed.

The Department of Defence controls the export or supply of certain military and WMD-related goods, services or technologies, and works to ensure that exporters are compliant with export controls. Defence is responsible for administering Australia's lists of controlled export items, known as the "Defence and Strategic Goods List" (DSGL). This is a consolidated list of controlled items drawn from the control lists of the export control regimes, treaties and conventions to which Australia belongs. Part of the DSGL is the Dual-Use List which covers items which have a civil application but which may be adapted for use in military or WMD programs. The DSGL also controls export of certain software and technologies. Australia's DSGL is updated annually and is available at http://www.defence.gov.au/strategy/dtcc. As mentioned previously, Customs and WMD legislation are the primary vehicles for enforcement.

The Department of Foreign Affairs and Trade (DFAT) is responsible for coordinating Australia's participation in arms control treaties and non-proliferation regimes, as well as conducting some domestic activities to counter WMD proliferation such as BWC implementation and outreach and domestic material security controls. DFAT, in cooperation with the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), also administers visa screening processes in relation to the *Migration Regulations* to guard against visitors to Australia engaging in activities associated with the proliferation of WMD.

The Australian Customs Service (ACS) manages the security and integrity of Australia's borders. It works closely with other government and international agencies, in particular the Australian Federal Police, the Australian Quarantine and Inspection Service, the Department of Immigration and Multicultural and Indigenous Affairs and the Department of Defence, to detect and deter the unlawful movement of goods and people into and out of Australia. ACS has the responsibility for monitoring the movement of WMD materials and technology across the border. ACS has the power to intercept and detain goods that are imported or exported without lawful authority. This is a high priority for ACS and sophisticated techniques are used to target high-risk aircraft, vessels, cargo, postal items and travellers. This includes intelligence analysis, computer-based analysis, detector dogs and various other technologies.

The Australian Safeguards and Non-Proliferation Office (ASNO), located within DFAT, has primary responsibility *inter alia* for implementing the NPT and CWC in Australia. This involves imposing controls on the possession and movement, including export, of nuclear materials and technologies, and import and domestic activities associated with CWC Scheduled chemicals.

Technical assistance to other states

Australia recognises that some states may require assistance in implementing the provisions of UNSCR 1540. Australia is willing to provide assistance as appropriate to the states in our immediate region which lack the legal and regulatory infrastructure, implementation experience and/or resources needed to fulfil the provisions of UNSCR 1540.

Over recent months, Australia has stepped up its counter-proliferation outreach activities. These activities focus on providing information, training and assistance on export controls to key supplier and transhipping countries in the Asia-Pacific region and will include hosting the Sydney Regional Meeting on Nuclear Safeguards and Security from 8 to 9 November, as well as provision of assistance to the IAEA Additional Protocol Seminar for Pacific Island States from 10 to 11 November.

Australia has also made financial contributions to international counter-proliferation initiatives, including, G8 Global Partnership Against the Spread of WMD. Australia's contribution has been directed to the Japanese-Russian program for the dismantling and destruction of nuclear submarines decommissioned from the Russian Federation's Pacific Fleet. Australia was an early contributor to the Nuclear Security Fund (NSF) and Australia's pledge to the IAEA's Technical Cooperation Fund is paid in full each year. Australia also contributes significant extra-budgetary funding to the IAEA's Regional Cooperative Agreement for the Asia-Pacific (RCA).

Australia is working with New Zealand to assist Pacific Island States with the preparation of their reports under UNSCR 1540. Australia and New Zealand have already circulated a short guide to Pacific Island States, and offered assistance in the preparation of reports.

Comments in relation to the specific obligations in UNSCR 1540:

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Australia does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Any such support is prohibited under Australian law. Appropriate legislation is detailed below.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Action taken

- Obligations under the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC) are fully enacted in Australian law.

- Nuclear Weapons: Australia's obligations under the NPT, the Convention on the Physical Protection of Nuclear Material (CPPNM) and Australia's safeguards agreement with the IAEA (INFCIRC/217) and its related additional protocol are fully enacted in Australian law through the *Nuclear Non-Proliferation (Safeguards) Act 1987* ("the *Safeguards Act*"). Under this Act:
  - the unauthorised taking of nuclear material is an offence (section 33);
  - unauthorised possession of nuclear material, associated material, associated nuclear technology, and associated equipment is an offence (section 23);
  - permits are required to use and to possess nuclear material, associated material, associated nuclear technology, and associated equipment within Australian jurisdiction (section 13);
  - permits are required to transport nuclear materials within Australian jurisdiction (section 16);
  - it is necessary to obtain an "authority to communicate" in order to communicate in relation to associated technology (section 18); and
  - extra-territorial provisions apply to Australian nationals and carriers (section 38).

- Chemical Weapons: the CWC is enacted in Australian law through the *Chemical Weapons (Prohibition) Act 1994* (the "*Chemical Weapons Act*"). Under this Act and its associated regulations:

- it is an offence to use, develop, acquire, stockpile, retain, transfer, assist or engage in activities associated with chemical weapons, or to use riot agents as a method of warfare (section 12);
- a permit system applies for limited amounts of CW agents to be used for defensive purposes or in some civil situations where there is a dual-use application (section 16); and
- offences under the Act apply extraterritorially to Australian nationals, ships and aircraft (section 5).

- Biological Weapons: the BWC is implemented in Australian law through the *Crimes (Biological Weapons) Act 1976*. Under this Act:
  - it is unlawful for Australians to develop, produce, stockpile or otherwise acquire or retain microbial or other biological agents or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict; and
  - its operation extends to acts done or omitted to be done by Australian citizens outside Australia and the external Territories (section 5).

- WMD proliferation: catch all: It is not possible to identify and describe for regulatory purposes all goods and services which could contribute to a WMD program. To address this situation, the Australian Government introduced the *Weapons of Mass Destruction (Prevention of Proliferation) Act* 1995 (the "*WMD Act*") which enables the Australian Government to control the export or transfer of any goods or services that may assist a WMD program.

- Terrorist Acts: In addition to specific offences in relation to nuclear, chemical and biological weapons, Australia has legislation directed at terrorist offences more generally. Part 5.3 of Australia's *Criminal Code Act 1995* criminalises terrorist acts and related activities. The Code:
  - applies to all actions or threats of action that constitute terrorist acts no matter where the action or threat occurs (section 100);
  - provides that a person commits an offence if the person engages in, or is connected to, or plans for, or prepares for, or prepares a document connected to, a terrorist act (section 101);
  - provides that a person commits an offence if the person intentionally provides to support or resources to an organisation that would help the organisation prepare, plan, assist in a terrorist act (section 102);
  - covers financing of terrorist organisations, in particular:
    - it is an offence to receive funds from, or make funds available to a terrorist organisation (section 102); and
    - there is an extended geographical jurisdiction for financing of terrorist organisation offences (Section 103).

- Chapter 2 of the Criminal Code covers offences related to conspiracy and complicity. It extends criminal liability to all those who attempt to commit federal offences, or participate in them as an accomplice, or otherwise assist (aid, abet, counsel or procure) the commission of federal offences. In that way it ensures that criminal liability for the offences mentioned above relating to the manufacture, acquisition, possession, transport, transfer or use of nuclear, chemical or biological weapons extends to those who attempt to engage in those activities, participate in them as an accomplice, assist or finance them.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a)Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

See below under OP3(b)

(b)Develop and maintain appropriate effective physical protection measures;

Action taken:

- Under Australia's IAEA safeguards agreement (INFCIRC/217), Australia has instituted a State System of Accountancy and Control which ensures that appropriate accountancy and control measures are applied to all nuclear material within the Australian jurisdiction. The Convention on the Physical Protection of Nuclear Material (CPPNM) is incorporated in the *Safeguards Act* and its internationally agreed requirements are applied, via permit conditions, to all nuclear material and nuclear facilities in Australia as appropriate. Australia polices the performance of CPPNM obligations at facilities and other locations in Australia by compliance inspections and permit conditions. In addition Australia implements, through permit conditions, IAEA guidelines on physical protection of nuclear material and facilities as set out in INFCIRC/225rev4.
- Under the *Chemical Weapons Act* and associated legislation, Australia has established national permit systems for the production, processing, consumption and export/import of CWC Scheduled chemicals, including CW agents, saxitoxin and ricin. Australia requires these permit holders to report on thefts or unexplained chemical losses, chemical disposal in the case of plant closure, and to provide statements in regard to chemical security. Permit holders must also report annually on production, use and trade of CWC Scheduled chemicals.

- Australia has significant complementary legislation which supports our BWC obligations, namely controlling access, possession, use and distribution. Access to dangerous biological agents in Australia is controlled through permits issued under the *Quarantine Act 1908* and/or the *Gene Technology Act 2000*. These Acts also establish offences for breaches of the law which can be punished by fines or imprisonment.
- The *Quarantine Act* is designed to prevent the introduction into Australia of pests and diseases affecting humans, plants and animals. All biological agents require prior permission to import, and conditions for approval apply, including satisfying explicit physical protection measures, future transportation, distribution and disposal of the goods and the use to which the goods may be put.
- The *Gene Technology Act* controls the manufacturing or the conduct of experiments with genetically modified organisms (GMOs) and require prior authorisation. Accreditation and permit conditions can impose appropriate containment requirements and physical protection provisions must be met for those facilities dealing with high-risk GMOs.

Planned Action

- Australia is reviewing the regulation, reporting and security around the storage, sale and handling of chemical, biological and radiological materials. The review is due for completion by mid 2005. It examines existing measures to account for and secure hazardous materials, and is likely to recommend a range of additional measures concerning the security surrounding these materials. The outcomes of this review are also relevant to "Planned Action" for subsequent Operative Paragraphs, but for simplicity this text has not been repeated.

(c)Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Action taken:

- Australia maintains border controls and law enforcement measures to detect, deter, prevent and combat the illicit trafficking of nuclear, chemical, and biological weapons and their means of delivery through the *Customs Act 1901* and associated regulations, and the *WMD Act*.

- Australia also maintains immigration controls that allow visa applicants to be screened on the basis of whether their presence in Australia may be directly or indirectly associated with WMD proliferation. (*Migration Regulations, Public Interest Criteria 4003(b)*).

- Under the *Customs Act*, Australia:
  - has the power to require importers to declare and complete a Customs import entry for goods on first arrival at a port or airport in Australia (section 68);
  - has the power to require exporters to declare and complete a Customs export entry for goods intended for export (section 113);
  - can detain imported goods (section 77EA);
  - For imports: The *Customs (Prohibited Imports) Regulations 1956* control the import of prohibited weapons, strategic goods, dangerous goods, chemicals and chemical compounds (CWC), biological and radioactive agents; and
  - For exports: The *Customs (Prohibited Exports) Regulations 1958* control the export of prohibited defence and strategic goods, arms or related materiel, dual-use goods and equipment and radioactive substances listed on Australia's Defence and Strategic Goods List (DSGL). The DSGL is compatible with the control lists of the international export control regimes.

- Customs fully implemented the Integrated Cargo System (ICS) for exports on 6 October 2004. All exporters now have to meet strictly defined evidence of identity requirements to be registered users under the ICS (as provided under the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*). The ICS and the registration for electronic communication with Customs provide additional monitoring and examination powers on the exports of chemical, nuclear and biological-related materials.

- As previously discussed, the *WMD Act* and its derived Regulations also provide catch-all controls for goods and services not regulated by the *Customs Act* 1901. The Act covers the export of WMD-related goods from Australia and the provision of WMD-related services, both within and outside Australia.

- Biological weapons: The provisions for importation of biological materials are covered by the *Quarantine Act*, as discussed in OP3(b). It is de igned to prevent the introduction into Australia of serious pests and diseases affecting humans, plants and animals. All biological agents require prior permission to import, and conditions for approval usually apply. High risk organisms such as serious pathogens of humans, animals and plants would only be permitted under the most stringent conditions.

- Brokering: The *WMD Act* also covers the provision of WMD-related services, which would include brokering activities, both within and outside Australia. Furthermore, a broker will be criminally liable under Chapter 2 of the *Criminal Code* (discussed above) if the broker intentionally aids, abets, counsels or procures the commission of an offence in relation to nuclear, chemical or biological weapons, or conspires with another to commit such an offence.

Planned action:

- Australia will continue to upgrade its customs and monitoring and examination powers of dual-use chemical, nuclear and biological materials, equipment and technology with the introduction of the Customs Integrated Cargo System (ICS) Imports phase in June 2005. As with exporters, all importers will have to meet strictly defined evidence of identity requirements to be registered users under the ICS Imports system (also provided for under the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*). Goods being transhipped through Australian ports will be captured under the ICS, being reported as imports and exports.

(d)Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

Action taken:

- The export provisions of the *Customs Act* 1901 listed under Paragraph 3(c) above also control the export and transhipment of goods. The *Customs Act* also requires the reporting of all incoming cargo whether for import, transit without leaving the vessel/aircraft, or transhipment aboard a different vessel/aircraft after being unloaded but not imported.

- Australia's *Customs (Prohibited Exports) Regulations* apply to tangible items prescribed in the Defence and Strategic Goods List. Export under these regulations involves the physical crossing of national borders by the controlled tangible items. The export, transhipment and re-export of controlled (and uncontrolled but WMD-related) goods from Australia are regulated by both the *Customs Act* 1901 and *WMD Act* 1995. End-use and end-user controls may be invoked and enforced in instances when a proposed controlled export is deemed sensitive.

- The financing of illicit export and transhipment of materials, and technology suitable for the development of nuclear, chemical or biological weapons will be covered by the inchoate offences in the Criminal Code (particularly conspiracy and complicity) that are ancillary to those offences already mentioned above. There is a specific offence of financing terrorism in section 103.1 of the Criminal Code which applies where a person provides or collects funds and the person is reckless as to whether the funds will be used to facilitate or engage in a terrorist act. The offence is committed even if the terrorist act does not occur.

- Financing: Actions to supply WMD or related material may constitute offences under the *Crimes Foreign Incursions and Recruitment Act.* The Act makes it an offence for a person (either within or outside Australia) to engage in preparations for incursions into foreign States for the purpose of engaging in hostile activities (section 7). This offence covers giving, receiving or soliciting money or goods, or the performance of services, with the intention of supporting or promoting incursions into foreign States for the purpose of engaging in hostile activities.

Planned Action

- Australia is introducing the electronic reporting systems, the Integrated Cargo System, planned for completion in 2005 (outlined under paragraph 3(c)) which will require reporting for all goods entering Australia, including those for transit or being transhipped.

Operative Paragraph 4

Decides to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution.

Australia has submitted its Report to the UNSCR 1540 Committee in accordance with OP4.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

Action taken

- Australia is a State Party to the NPT, CWC and BWC and party to a broad range of bilateral nuclear safeguards and nuclear cooperation agreements. Obligations under these regimes and agreements are implemented domestically under corresponding pieces of legislation. Australia is a strong advocate of each regime and continues to work for their better implementation. Australia is also an active member of the IAEA and OPCW and has been closely involved in the continuing work by States Parties to strengthen the BWC.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Action taken:

- Australia is a strong supporter of effective multilateral export control regimes, and is working to raise international standards. Australia is an active member of the Nuclear Suppliers' Group, the Australia Group, the Missile Technology Control Regime, the Zangger Committee, and the Wassenaar Arrangement. Australia maintains and regularly updates detailed national export control lists that are fully consistent with the export control regimes. It also advocates widespread adherence to the export control regimes and its agreed standards for trade in sensitive items, including adoption of national control lists. Australia has a particularly prominent role as chair and secretariat of the Australia Group, including in coordinating outreach to countries outside the Group.

- As a State Party to the CWC, Australia also adheres to its provisions in relation to lists of Scheduled chemicals. Australia makes declarations to the Organisation for the Prohibition of Chemical Weapons (OPCW) on national activities associated with these chemicals including production, processing, use, export and import. Australia also allows OPCW inspections of some CWC Scheduled chemical facilities and imposes prohibitions or restrictions on the trade of these chemicals with CWC non-States Parties. The CWC Scheduled chemical list as used by Australia is available at http://www.dfat.gov.au/cwco.

- The Department of Defence is responsible for administering Australia's control lists of controlled items, known as the "Defence and Strategic Goods List" (DSGL). This is a consolidated list of controlled items drawn from the control lists of the export control regimes, treaties and conventions to which Australia belongs. Part of the DSGL is the Dual-Use List which covers items which have a civil

application but which may be adapted for use in military or WMD programs. Australia's DSGL is updated annually and is available at http://www.defence.gov.au/strategy/dtcc.

- The main legislation on export enforcement is the *Customs (Prohibited Exports) Regulations* (specifically regulation 13E) which provide for the control of all goods and technologies in Australia's DSGL. There are penalties for exporters who knowingly export goods without approval. In addition to these regulations, *Weapons of Mass Destruction (Prevention of Proliferation) Act* contains a "catch-all" provision. The DSGL also controls certain software and technologies. Import controls are enforced through the *Customs (Prohibited Imports) Regulations* (specifically regulation 5J) and relate mainly to certain chemicals.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

Action taken:

- Australia recognises that some states may require assistance in implementing the provisions of this resolution.
- Australia is willing to provide assistance as appropriate to the states in our immediate region which lack the legal and regulatory infrastructure, implementation experience and/or resources needed to fulfil the provisions of UNSCR 1540.
- Australia has worked solidly to strengthen domestic and international non-proliferation measures. Australia has been providing assistance to states in the Asia-Pacific region on WMD control and non-proliferation regimes since 1986 via the provision of structured training courses and ad-hoc informal training. Much of this assistance directly relates to the obligations contained in UNSCR 1540. Australia has also provided model legislation on the implementation of obligations under each treaty or convention, safeguards training and, specifically, implementation of the IAEA additional protocol.
- Since the adoption of UNSCR 1540, Australia has stepped-up its efforts to strengthen measures in the Asia-Pacific region to prevent WMD proliferation, including by sharing with regional countries our experience in combating WMD

proliferation and offering assistance and training to help countries improve their implementation and enforcement of export controls on WMD-related materials. Australia reports on its outreach activities to the export control regimes for the purposes of coordinating and adding value to parallel activities by other regime participants.

- Australia also contributes significant extra-budgetary funding to the IAEA's Regional Cooperative Agreement for the Asia-Pacific (RCA). We are contributing $A1.42 million over four years to improve regional radiological safety including the capacity to respond to radiological emergencies.

- Australia will be hosting at ministerial level the Sydney Regional Meeting on Nuclear Safeguards and Security from 8 to 9 November 2004 and will also provide assistance to the IAEA Additional Protocol Seminar for Pacific Island States from 10 to 11 November.

- Australia together with New Zealand is keen to assist Pacific Island states with the preparation of their reports under UNSCR 1540. We have already circulated a short guide to Pacific Island states, and offered assistance in the preparation of reports.

Operative Paragraph 8

Calls upon all States:

(a)To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Action taken:

- Australia has been active across the full range of multilateral non-proliferation regimes and has advocated firm, unified international action across a number of fronts as an effective means of responding to proliferation challenges and maintaining the integrity of the nuclear non-proliferation regime.

- Australia has worked to uphold the NPT's integrity by supporting a strong focus on compliance and verification issues in the NPT Review Process and the IAEA.

- Australia remains at the forefront of efforts to encourage the conclusion of further Additional Protocols to IAEA Safeguards Agreements. Through its seat at the IAEA Board of Governors, Australia was able to achieve progress on priority nuclear verification, safety and security issues. Australia is conducting an ongoing program of direct assistance to regional states to promote adoption of the

Additional Protocol to the IAEA Safeguards Agreement and providing assistance in meeting related obligations (including obligations relating to export control and reporting) as part of its outreach program.

- In November 2004, Australia will host a Regional Conference on Nuclear Safeguards and Security which will underline the importance of nuclear safeguards and aims to contribute to regional implementation of UNSCR 1540 and assist regional involvement in the Nuclear Non-Proliferation Treaty.

- Australia maintains its strong support for the CTBT and has stepped-up its representations to countries yet to sign or ratify the CTBT, in support of the Treaty's entry into force. Australia has focussed on development of the CTBT's verification network – the International Monitoring System. Australia will host the third highest number of monitoring stations, and currently has the highest number of monitoring stations certified as meeting CTBT requirements.

- Australia has worked to promote full international implementation of the CWC. In relation to the Asia-Pacific region, Australia has been involved in encouraging ratification/accession, provided advice on draft legislation, facilitated country attendance at relevant meetings, and provided training and information tools associated with CWC implementation. Australia has also made formal offers of assistance as part of the OPCW Action Plans associated with CWC Universality and Implementation.

At the Fifth BWC Review Conference, in 2002, States Parties agreed, inter alia, to hold three annual meetings prior to the Sixth Review Conference in 2006, to discuss and promote common understanding and effective action to strengthen the BWC. Each of these meetings was to be preceded by a Meeting of Experts which would examine key BWC-relevant topics. Australia strongly supports this work and has been active in the Experts meetings.

- Australia is strongly committed to implementing its obligations under the BWC, including submitting annual Confidence Building Measures declarations to the UN.

(b)To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties.

Action taken:

- As described above, all nuclear, biological and chemical-related non-proliferation treaties to which Australia is a party have been implemented domestically through appropriate legislation. The key legislative instruments are the *Nuclear Non-Proliferation (Safeguards) Act 1987*, *Chemical Weapons (Prohibition) Act 1994*, and *Crimes (Biological Weapons) Act 1976*.

(c)To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Action taken:

- Australia has an ongoing involvement in efforts to strengthen the IAEA safeguards system via the action of the Australia Safeguards Support Program and via the provision of consultancies and other direct assistance. Australia is active in the IAEA Board of Governors, chairs the Standing Advisory Group on Safeguards Implementation and plays an extensive role in other IAEA technical activities.

- Australia is a strong advocate of the CWC and BWC and actively engages in fora associated with their fuller implementation, most notably those conducted by the OPCW and the series of BWC Experts Group meetings. Australia has made national statements of its commitment at major OPCW meetings, and actively participates in OPCW Industry Cluster meetings which develop more effective verification measures for CWC compliance.

Planned Action

- As an initiative for increased transparency, Australia intends to voluntarily inform the IAEA of all transfers involving items and technologies notifiable under the guidelines of the Nuclear Suppliers Group (NSG).

(d)To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

- Australia has an extensive domestic outreach program aimed at promoting awareness of, and helping relevant facilities and companies meet, their obligations related to export controls for defence and dual-use and WMD-related items including CWC-related items. Australia's outreach program consists of a comprehensive and wide-scale program to:

- Educate exporters on the controls and counter-proliferation issues;
- Work with exporters to assist them to meet their obligations as exporters of controlled goods and technologies;
- Develop and foster on-going dialogue between the government and industry;
- Raise awareness of the methods employed by proliferant states and terrorist groups to obtain controlled goods and encourage exporters to report suspicious incidents and approaches they receive from overseas entities and within Australia.

- Australia also has similar major outreach programs associated with regulated nuclear and chemical domestic activities and chemical imports. These often occur jointly with the export outreach and include:
  - Working with industry bodies;
  - Participating in and presenting at relevant industry and public meetings;
  - Publishing items on the CWC and Australia's obligations;
  - Undertaking extensive industry visits throughout Australia; and
  - Publishing industry guidance material.

- All relevant government agencies work together on outreach activities, particularly the Department of Defence's Defence Trade Control and Compliance Section (responsible for WMD-related export licensing) and Australian Safeguards and Non Proliferation Office. We maintain comprehensive national websites for industry to consult: www.dfat.gov.au/cwco, http://www.defence.gov.au/strategy/dtcc/default.htm):

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

Action taken:

- Australia promotes dialogue and cooperation on non-proliferation by participating in, presenting at, sponsoring and hosting international meetings associated with exchanging views and cooperating on the implementation of the NPT (safeguards), CWC and BWC such as the CWC National Authorities meetings and the BWC Experts meetings.

Planned action:

- The Australian Government, in conjunction with the Government of Indonesia, is planning to conduct a BWC-related workshop for regional countries in Melbourne in February 2005. The BWC workshop will complement the Geneva-based BWC

program of work through assisting countries in the region to enact effective BWC legislation. Australia will be inviting regional States Parties to assist them in better understand and implement BWC obligations.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Action taken:

- Australia has been a core participant in the Proliferation Security Initiative (PSI) since its inception in May 2003. Australia hosted and chaired the second plenary meeting in Brisbane in July 2003, which advanced the Statement of Interdiction Principles. Australia also led the first interdiction training exercise, 'Pacific Protector', in the Coral Sea in September 2003. Australia is hosting a meeting of PSI Operational Experts in November.

- Australia is also a Party to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation ("SUA Convention") and supports the proposed amendments to the Convention that would criminalise the illicit transport of WMD, their delivery systems and related materials on commercial vessels at sea and which would facilitate the boarding of ships suspected of carrying illicit WMD cargo.